IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL
Criminal Misc. Application No.860 of 2005

Virendra Kumar alias Kaka
S/oManohar Lal,
Resident of Gali No.3
Ambedkar Nagar Jwalapur,
PS Jwalapur,District Haridwar applicant

Versus

State of Uttaranchal opposite party

Hon'ble B.C.Kandpal,J.

By way of this petition under Section 482 Cr.P.C. the petitioner has prayed that order dated 22.11.2005 passed by Additional Sessions Judge/ II FTC Haridwar be quashed.

Brief facts giving rise to this petition are that the petitioner is facing trial under Section 302 IPC pending before the court below.

The petitioner has applied for bail and his bail was rejected up to the stage of High Court.

During the commencement of the trial an application was moved by the petitioner that the petitioner is suffering from mental ailment and he is also physically handicapped and is not in a position to participate in the trial. Therefore he may be released on bail so that his proper care may be taken up.

Learned trial court vide the impugned order dated 22.11.2005 rejected that application and issued direction that the petitioner be referred for better treatment to Mental Asylum ,Bareilly.

Feeling aggrieved by the aforesaid order the present petition has been filed.

Heard learned counsel for the petitioner, learned AGA and perused the record.

The record reveals that previously an application was moved by the prosecution that the petitioner is unable to attend the court on account of mental ailment. A report was called for by the trial court from the Superintendent District Jail and it was ultimately found that the applicant was suffering from mental ailment and his treatment was also done in the Medical Institute at Jollygrant but all in vain.

Ultimately the petitioner moved an application before the court below that keeping in view the mental ailment of the petitioner he should be released on bail and should be given in the custody of his father for better medical treatment. This application has been rejected by the trial court.

The record further reveals that the bail application of the applicant has previously been rejected on merit by this court. It is clear from the record that the petitioner is suffering from mental ailment therefore the trial court by exercising its discretion has referred the petitioner for better treatment to Mental Asylum Bareilly.

I do not find anywhere that the discretion exercised by the trial court is arbitrary and unjust.

I do not find any abuse of the process of court and any flagrant injustice caused to the petitioner by the impugned order.

The petition lacks merit and is liable to be dismissed.

Accordingly the petition is dismissed.

(B.C.Kandpal,J)

2.12.2005
nbj